



DEPARTMENT OF THE NAVY
THE ASSISTANT SECRETARY OF THE NAVY
(INSTALLATIONS AND ENVIRONMENT)
1000 NAVY FERTAGON
WASHINGTON, DC 20390-1000

Christopher Scolese
Administrator
National Aeronautics and Space Administration Headquarters
Washington, D.C. 20546-0001

MAY 6 2009

Dear Mr. Scolese:

Recent communications and actions by personnel of the National Aeronautics and Space Administration (NASA) evidence a unilateral departure from the commitments reached between our agencies on the facility ownership and responsibility for ongoing and future remedial actions, as well as a joint approach on the remedial action and subsequent reuse of Hangar 1, at the former Naval Air Station (NAS) Moffett Field. I am writing to express my significant concern about this movement away from the path that was mutually agreed to by our agencies and to seek your commitment to attain a resolution in the best interest of NASA and the Department of the Navy (Navy).

In December 2008, the Navy and NASA consummated a Memorandum of Understanding (MOU) for the transfer of Navy environmental responsibilities at the former NAS Moffett Field to NASA (Enclosure 1). Specifically, the MOU stated that NASA would assume responsibility for ongoing and future remedial actions. On March 5, 2009, Dr. James Wright, NASA's Deputy Assistant Administrator for Infrastructure, submitted a position paper to the Navy that reflects a movement away from the commitment memorialized by the MOU (Enclosure 2). This position paper states that the Navy does not have the necessary environmental funding for the Federal Facility Agreement (FFA) "remediation requirements" for Fiscal Year (FY) 2009, FY2010, and FY2011 and as a result, NASA will not assume the responsibility for the environmental sites until the Navy has completed all necessary remedial actions and has obtained regulatory agency concurrence that the remedial actions have been implemented and are operating properly and successfully.

The MOU executed between our agencies in December 2008 documents our intention to execute a budget based transfer of FY 2009, FY 2010, and FY 2011 appropriated funds for NASA's immediate assumption of program responsibility for ongoing and future remedial actions. Although Dr. Wright's recent position paper states that the Navy does not have the necessary funding, rest assured -- the Navy has all the necessary funds to implement all FY2009 environmental actions in accordance with the FFA. The Navy remains prepared to transfer to NASA all unobligated funds appropriated in FY2009 for ongoing and planned remedial actions pursuant to our 2008 MOU. The Navy has also budgeted for FY2010 and FY2011 for the same purpose. The

budgets are sufficient to meet all FY2010 and FY2011 environmental actions in accordance with the FPA. The Navy remains prepared to initiate the transfer of funds appropriated in FY2010 and FY 2011 to NASA pursuant to our 2008 MOU.

With respect to Hangar 1, the Navy's cleanup undertaking does not include residing Hangar 1. While we are not aware of the details of NASA's independent cost estimates for residing, the Navy cost estimates are based on standard commercial bidding practices. Differences in these estimates are largely immaterial as they were derived for different purposes. We appreciate that NASA has committed in many public forums to finding an adaptive reuse of Hangar 1 and securing funding for residing the hangar through a development partner. While it is unfortunate that funding is not immediately available to NASA for its efforts, the Navy cannot assume NASA commitments to restore the hangar. The Navy is in the contracting process to begin the removal action selected in the Hangar 1 Action Memorandum that NASA concurred on in July 2008.

Although the Navy still seeks to coordinate its cleanup undertaking with NASA's reuse, it is clear that NASA's reuse undertaking and residing of the Hangar will require a completely separate planning effort and separate compliance with the National Historic Preservation Act (NHPA). Ames Research Center staff reported that NASA had already begun consulting with the California State Historic Preservation on this separate undertaking. The Navy will continue to keep NASA informed of the removal action schedule and work plans, and remains committed to closely coordinating our action with NASA's as best as possible.

Aligning environmental program responsibility with federal facility ownership in a manner consistent with the agreement reached in December 2008 is the best means of achieving NASA's desired outcome of "enhanced levels of involvement in the remedial action and selection process to ensure consistency with NASA's master plan for re-use and ongoing operations." In closing, the Navy remains committed to the signed MOU our agencies mutually agreed to in December 2008. I would like to reengage with NASA leadership to renew the focus on this important realignment of responsibilities. Please have your staff contact Captain Tilghman Payne at (703) 693-4532 or tilghman.payne@navy.mil to arrange a meeting with me on this matter.

Sincerely,



BJ Penn

Enclosure: (1) 12 Dec 2008 MOU
(2) 5 Mar 2009 NASA position paper